Comprehensive Intercarrier Compensation Reform

CC Docket No. 01-92
WC Docket No. 04-36
WC Docket No. 06-122

9/24/08
XO Communications

AGENDA

- Comprehensive Intercarrier Compensation Reform
- Verizon ICC Proposal
- Phantom Traffic
- Traffic Stimulation
- Universal Service Reform

XO Supports Comprehensive ICC Reform

- Reform should solve current compensation anomalies and treat all carriers alike

- Reject piecemeal reform and carrier-specific requests. E.g. AT&T and Embarq petitions
  - Self-serving requests do not advance the public policy goals related to sustainable, comprehensive reform
  - "Interim" fixes are not comprehensive reform

- Establish a target unified terminating rate of $0.002 that is applicable to ALL traffic exchanged with or on the PSTN

- Adopt a 7 year transition period to target terminating switched access rate for TDM traffic

- Prospectively treat all non-local IP-PSTN traffic as interstate and transition to the target rate over the 7 year period

Comprehensive ICC Reform Additional Principles

- Ensure that process and target rate are legally sustainable so as to remove overhang of litigation

- Any rate changes including any new rates should be competitively neutral
  - ie. CMRS providers can only commence billing for termination if they are under an obligation to pay for termination

- Any recovery mechanism must be available to all carriers to recover lost access revenues

- New funding for bringing advanced services to underserved areas must be targeted to communities and providers willing to deploy such services. Need mechanism/reporting to ensure funding is being used for those purposes.

Verizon's ICC Plan – Benefits and Negatives

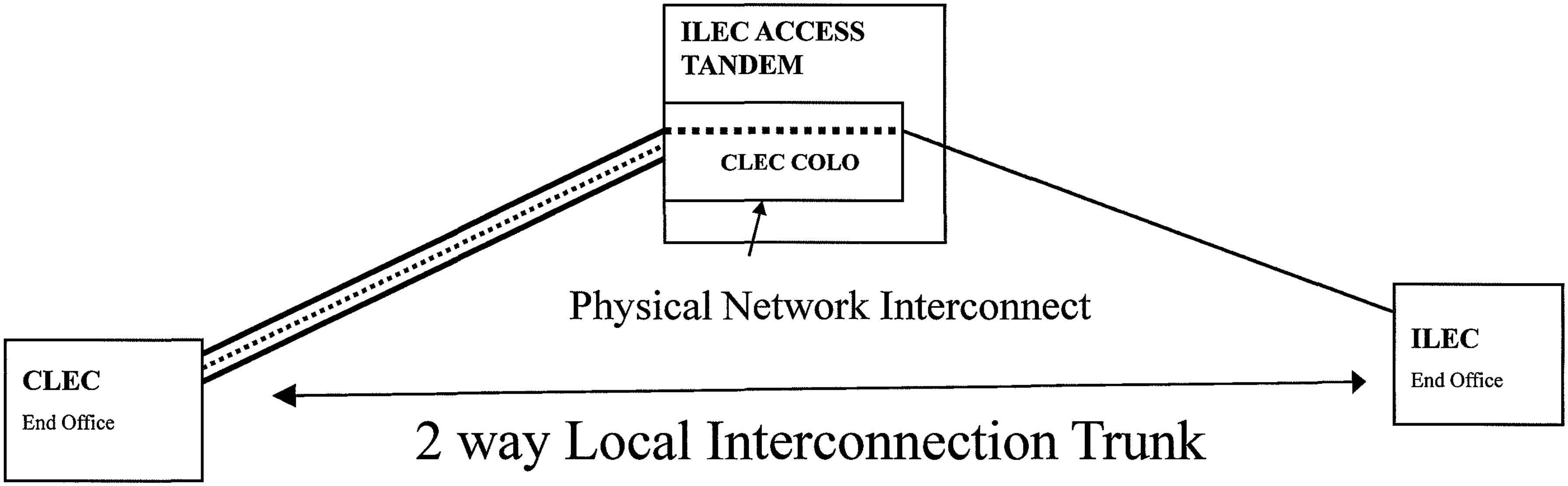
- Benefits
  - Proposes unified and simplified rate structure for terminating traffic
  - Permits recovery of lost ICC from retail end users

- Negatives
  - VoIP not directly addressed
  - Transit rate structure neither consistent nor cost based
  - Rates may NOT be legally sustainable
  - Plan is not competitively neutral
    - Allows CMRS to collect ICC without requiring payment
    - Sets up elaborate "recovery mechanism" only available to incumbent LECs

Verizon ICC Plan - Questions

- Network architecture
  - Plan needs to be explicit that separate trunks no longer required and **NO PENALTIES** from commitment levels of tariffs/contracts from combining
- Dedicated transport
  - Do TELRIC based rates apply? If tariff based rates with flexibility apply, do volume and term discounts also apply?
- Interconnection at POI
  - If direct and indirect interconnection are available, what obligations apply at the non ILEC POIs? Collocation?
  - Carriers that want to interconnect directly may self-provide transport. What obligations apply for non-ILEC POIs?
- Transit
  - Transit rates for all traffic types should be unified at cost
  - Need clarification that there is no charge for transit record production or exchange

CLEC-ILEC Interconnection Current Structure



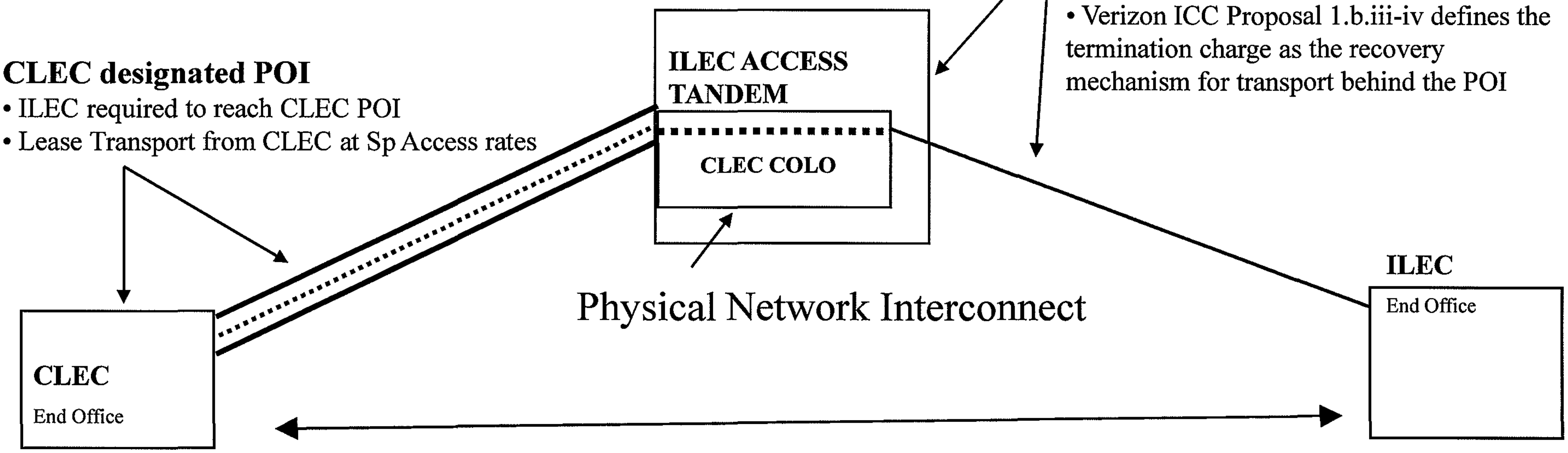
CLEC Facility (Billed to ILEC)

ILEC Facility (Billed to CLEC)

CLEC-ILEC Interconnection
Verizon ICC Proposal

ILEC designated POI (Access Tandem)
- Verizon ICC Proposal 1.c.iii.
- Verizon ICC Proposal 1.b.iii-iv defines the termination charge as the recovery mechanism for transport behind the POI

CLEC designated POI
- ILEC required to reach CLEC POI
- Lease Transport from CLEC at Sp Access rates



2 way Local Interconnection Trunk

CLEC Facility (Billed to ILEC)

ILEC Facility (recovered via termination rate)

Phantom Traffic

- Phantom Traffic can be addressed by adopting the US Telecom Proposal with one change
  - XO concurs with US Telecom proposal on the following points. This is sufficient to address phantom traffic.
    - Providers must transmit TNs received from or assigned to the calling party
    - Providers must transmit unaltered TNs it receives from another provider in signaling
    - Providers may not route traffic to disguise the identity of a provider or jurisdiction of traffic
    - The N-1 carrier must perform a LNP query
  - XO disagrees with the last component of the US Telecom proposal.
    - No legal basis to permit ILECs the right to invoke negotiation and arbitration pursuant to section 251/252. By definition, ILECs are not requesting carriers pursuant to section 251(c).

Traffic Stimulation

- "Traffic stimulation" is a rate issue.
- To date, carriers involved in traffic stimulation schemes have been rural CLECs.
- Remedies should be narrowly tailored to only those carriers that claim the rural exemption. FCC should reject overly-broad fixes.
  - Certifications should be limited only to rural CLECs claiming the rural exemption (Sprint proposal)
  - Automatic rate adjustments downward should not apply to LECs that mirror price cap LECs interstate access rate
  - If a carrier triggers the automatic rate adjustment downward, that carrier should lose their ability to claim the rural exemption
  - Traffic stimulation issue will be resolved through IC Reform that applies to all carriers and eliminates rural exemption

USF Contribution Reform – Clear Definitions Are Crucial

- Clear definitions are crucial for creating certainty and reducing burdens for service providers and regulators
  - Assessable Number – a North American Numbering Plan (NANP) telephone number that enables an end user to receive calls from, or place calls to, the public switched telecommunications network.
  - Assessable Number End User – the person with the exclusive right to receive calls to, or place calls from, an assessable number for a period of one month or longer.
    - An Assessable Number End User can permit other persons to exercise its rights to receive calls to, or place calls from, the Assessable Number.
  - Contributor – the service provider that assigns an Assessable Number to an Assessable Number End User.
    - The Contributor is the service provider immediately preceding the Assessable Number End User.
  - Non-Assessable Number – an otherwise Assessable Number that a service provider has not assigned to a third-party Assessable Number End User.

USF Contribution Reform – Need Clear Assignment of Responsibilities

- Each month, each Contributor must determine how many of its Assessable Numbers are assigned to Assessable Number End Users (the "Monthly Count"). The methodology used to determine the Monthly Count must be reasonable, consistent from month-to-month, and fully auditable. Within 30 days of the end of each quarter, each Contributor must pay to USAC an amount equal to its Monthly Count for each of the months in the previous quarter multiplied by the FCC determined Assessable Number Charge.

- Contributors should be permitted, but not required, to recover contributions from Assessable Number End Users.

- Contributors should be required to file NRUF reports.

- A Contributor is responsible to pay its USF obligation directly. If that Contributor receives its numbers from an underlying provider, it must file with its underlying provider a "Contributor Certification" confirming that Contributor is responsible for that payment. If that Contributor fails to file a "Contributor Certificate", the underlying provider will treat that Contributor as an Assessable Number End User.

- A Contributor Certification must include a sworn declaration that the certifier will:
  - serve as the Contributor for the covered numbers;
  - comply with the FCC's USF rules; and
  - file its own NRUF as the "intermediate carrier" for the covered numbers (*i.e.*, report its own utilization for the numbers).

- Upon receiving a Contributor Certification, a service provider should have no further USF obligations with respect to the covered numbers apart from classifying them as "intermediate numbers" on its NRUF reports.

USF Contribution Reform – Implementation Issues are Key

- The FCC should create a safe harbor that permits Contributors to calculate the Monthly Count on the date they generate bills.
  - Only numbers that meet the definition of "Assessable Number" and are assigned to an "Assessable Number End User" on the date the Contributor generates its bills would be included in the Contributor's Monthly Count and thus subject to contributions.
  - The responsibility for an assessable number being ported to or from another service provider would be determined by the status of the number on the date the bills are generated.

- To the extent the FCC imposes a hybrid contribution system pursuant to which contributions are collected from some services that do not use numbers, the agency must ensure that contributions from those services are not required if they are integrated with other services that use numbers.

- A transition period of at least 18 months is necessary to permit the modification of billing, numbering, reporting and administrative systems.